

Remarks/Arguments

The Examiner issued a Restriction between the subject matter of Species I set forth in Figures 1 and 3, Species II shown in Figure 2, Species III set forth in Figures 4 and 4A, and Species IV shown in Figures 5, 5A, and 6. The Applicants have elected to proceed with Species IV, including Figures 5, 5A, and 6 and claims 1, 2, 4, 6, 8-20, and 22, with traverse.

The Examiner also stated that claim 1 is generic. If a generic claim, such as claim 1, is allowed, then the Applicant is entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim.

Lastly, this election is made with traverse. Under 35 USC § 121, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent and distinct. However, if the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions. (See

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MPEP § 803.)

In this case, the various species identified by the Examiner are all directed to a pad or device for therapeutic correction of thoracic spine positioning in a patient. As such, a search relating to such a pad or device should disclose all relevant art without imposing a serious burden on the Examiner. Since examination of all of the claims of this application can be made without serious burden, the restriction is traversed.

Accordingly, while the Applicant makes an election of Species IV, including Figures 5, 5a, and 6 and claims 1, 2, 4, 6, 8-20, and 22 with traverse, the Applicant respectfully requests that the restriction requirement be withdrawn.

Respectfully submitted,

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